reflected on the tribunal, and thus embarrassed the administration of justice. If the newspaper wished to vindicate itself against a false charge, it might perhaps have simply reasserted the truth of its first report, or better yet, have waited for vindication till the trial was over; but to state, during the trial, that the judge knowingly lied was not a justifiable method of defending its reputation. If then the truth of the first publication was irrelevant to the charge, it can hardly be said that the defendant was denied a constitutional right in not being permitted to set up such a defence.

STATE CONTROL OF INTERSTATE COMMERCE. — The line between the permissible and the unpermissible in State legislation affecting interstate commerce becomes at times vague and indistinct. The fundamental reason for this uncertainty lies in the difference of opinion among authorities as to the interpretation of that clause in the United States Constitution which gives to Congress the power to regulate commerce between States. One view, expressed by Chancellor Kent, and commended by its simplicity, is to the effect that until Congress acts a State may pass any laws it pleases in regard to commerce. This view has not been taken by the Supreme Court; and the contrary doctrine now obtains, that Congress has exclusive power to regulate interstate commerce, and that even when Congress does not act no State can take the power to itself. Practical necessity, however, early compelled a modification of this broad doctrine; and many State laws are supported under the guise of the police power of the State. The limits of this police power have been difficult of definition; and they have been strained or contracted accordingly as the Court has felt more or less strongly the pressure of the doctrine of Chancellor Kent.

In this doubtful condition of the law, the recent case of *Chicago, M. & St. P. Ry. Co.* v. *Solan*, 18 Sup. Ct. Rep. 289, is interesting. An Iowa statute, providing that no contract shall exempt from the carrier's liability any corporation carrying persons or goods by rail, was applied by an Iowa court to a contract of interstate commerce, the carrier being held to full liability for an accident happening in Iowa. In holding that the statute so applied was not unconstitutional as an attempt to regulate interstate commerce, the Court acts consistently with a line of other decisions which hold that a State may prescribe rules for the construction and regulation of railroads crossing its territory. *Smith* v. *Alabama*, 124 U. S. 465. Yet these decisions are hardly in accord with the reasoning in certain other cases. The general rule which has been laid down is that matters concerning interstate commerce which demand uniform regulation throughout the nation are beyond the scope of the police power of the State, while matters susceptible of a local treatment are within the scope of that power. This rule, however, has not been followed out with entire consistency. It was strained in putting a limitation of the police power in *Leisy* v. *Hardin*, 135 U. S. 100; the regulation there in question of sales of liquor brought from one State into another, even in the original package, seems to be a subject more fit for local than for national control; but the State law was held unconstitutional. In the present case, on the other hand, the rule is strained in the opposite direction in favor of the State power. The regulation of the contracts made by carriers engaged in interstate commerce would seem to be a particularly apt subject for a uniform

national law; in fact, in the case of *Hall* v. *De Cuir*, 95 U. S. 485, the Court declared uniformity in the rules governing carriers to be not only desirable, but necessary. The decision, therefore, is hard to reconcile with the general rule already stated, without modifying the rule in the interest of State laws deemed necessary for the protection of life or property within the State. The rule with its modifications thus forces the principle that Congress has exclusive power over interstate commerce to assume a meaning very different from the obvious one. The conclusion, however, that is reached in the present case is satisfactory; and so far as it is at variance with the principle of the exclusive power of Congress, it indicates a growing feeling in favor of the contrary view.

VERDICT BY INCOMPETENT JURORS. — The validity of a verdict rendered by a jury some of whose members are incompetent by statutory regulations, has long been the subject of conflicting adjudications in this country. Beginning with the early Maryland case of *Shaw* v. *Clarke*, 3 H. & McH. 101, it was certainly the prevailing opinion during the first half of this century that if one of the jurors was an alien, or under age, or lacked any other of the statutory requirements, he was a "non-juror," and his presence vitiated the whole panel and the verdict. The statutes were strictly construed, and incompetency absolutely disqualified a juror irrespective of any challenge from either party in the action; for, it was said, it is the duty of the State to put competent jurors in the jury-box, and the parties have a right to presume that the officers of the State will perform their duty. In recent years, however, the tide of authority has turned, and any incompetency of jurors is held to be only cause for challenge. If a party is cognizant of any incompetency and does not challenge, or even if he fails to examine a juror properly, he is held to have waived his right to object to the competency of the jury, and the verdict will not be set aside unless manifestly unjust. To this effect was a recent case decided in the Supreme Court of Iowa, *State* v. *Pickett*, 73 N. W. Rep. 346.

It is apparent that many considerations of convenience and public policy combine to support this later view. To permit a verdict to be set aside and a new trial granted whenever one of the litigants has failed to examine the jurors, is to waste the time of the court, increase the expenses of the parties and the State, and delay the ends of justice. On principle, too, this view may be supported. To say that there is a duty on the part of the State to put competent jurors in the jury-box, and that the parties may presume such jurors are competent, seems scarcely consistent with the spirit of the statutes which give the parties a right to examine and challenge the panel. If the parties may rely on the jurors being competent, of what significance are the provisions giving a right to challenge? As the Iowa court said, "The State makes no guaranty as to the competency of the jurors, but says to the litigants, 'Examine for yourselves.'" There seems to be no injustice in such a practice. That "a verdict of a jury of deaf-mutes would be valid if defendant failed to exercise his right to challenge," as has been objected, would be scarcely possible, since, by the weight of authority in England and this country, the judge will exercise his discretion and set aside such a verdict as being manifestly unjust.